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104TH CONGRESS
1ST SESSION

H. R. 1456

To amend title XVIII of the Social Security Act to provide expanded coverage of mental health and substance abuse treatment services under the medicare program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1995

Mr. STARK (for himself, Mr. WAXMAN, and Mr. MCDERMOTT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend title XVIII of the Social Security Act to provide expanded coverage of mental health and substance abuse treatment services under the medicare program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Mental Health Improvement Act".

(b) REFERENCES TO SOCIAL SECURITY ACT.—Whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provi-

sion, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. INPATIENT PSYCHIATRIC HOSPITAL SERVICES.

(a) SERVICES COVERED.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) inpatient hospital services furnished primarily for the diagnosis or treatment of mental illness or substance abuse for up to 60 days during a year.".

(b) LIMITATION ON COVERAGE.—Section 1812(b)(3) (42 U.S.C. 1395d(b)) is amended to read as follows:

"(3) inpatient hospital services furnished primarily for the diagnosis or treatment of mental illness or substance abuse that are furnished to the individual during a year after such services have been furnished to the individual for a total of 60 days during the year.".

(c) CONFORMING AMENDMENTS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by insert-

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ing "(other than services described in paragraph (5))" after "inpatient hospital services" the first place it appears.

(2) Section 1812(b)(1) (42 U.S.C. 1395d(b)(1)) is amended by inserting "(other than services described in paragraph (3))" after "inpatient hospital services" the first place it appears.

(3) Section 1812 (42 U.S.C. 1395d) is amended by striking subsection (c).

(4) Section 1814(a) (42 U.S.C. 1395f(a)) is amended—

(A) in paragraph (2), by striking subparagraph (A);

(B) in paragraph (3), by striking "(other than inpatient psychiatric hospital services)"; and

(C) by striking paragraph (4).

(5) Section 1861 (42 U.S.C. 1395x) is amended by striking subsection (c).

(d) EFFECTIVE DATE; TRANSITION.—The amendments made by this section shall take effect January 1, 1996, except that—

(1) an individual who at any time prior to such date has been furnished inpatient psychiatric hospital services (as defined for purposes of title XVIII of the Social Security Act as of the date of the en-

actment of this Act) for 190 consecutive days is not entitled to any services under section 1812(a)(5) (as added by subsection (a)(3)); and

(2) in the case of an individual who is not described in paragraph (1) and is receiving inpatient psychiatric hospital services (as defined for purposes of title XVIII of the Social Security Act as of the date of the enactment of this Act) on December 31, 1995, for which payment may be made under section 1812 of such Act, the number of days of services for which the individual is entitled under section 1812(a)(5) (and the number of days applicable under section 1812(b)(3)) shall be equal to the greater of 60 or the difference between 190 days and the number of days of such inpatient psychiatric hospital services furnished to the individual prior to January 1, 1996.

SEC. 3. INTENSIVE RESIDENTIAL SERVICES.

(a) COVERAGE UNDER PART A.—Section 1812(a) (42 U.S.C. 1395d(a)), as amended by section 2(a), is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) intensive residential services (as described in section 1861(qq)) furnished to an individual for up to 120 days during any calendar year, except that such services may be furnished to the individual for additional days during the year if necessary for the individual to complete a course of treatment to the extent that the number of days of inpatient hospital services described in paragraph (5) that may be furnished to the individual during the year (as reduced under such paragraph) is not less than 15.".

(2) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x), as amended by section 146(a) of the Social Security Act Amendments of 1994, is amended by adding at the end the following new subsection:

"Intensive Residential Services

"(mm)(1) Subject to paragraph (2), the term 'intensive residential services' means inpatient services provided in any of the following facilities:

"(A) Residential detoxification centers.

"(B) Crisis residential programs or mental illness residential treatment programs.

"(C) Therapeutic family or group treatment homes.

"(D) Residential centers for substance abuse treatment.

"(2) No service may be treated as an intensive residential service under paragraph (1) unless the facility at which the service is provided—

"(A) is legally authorized to provide such service under the law of the State (or under a State regulatory mechanism provided by State law) in which the facility is located or is certified to provide such service by an appropriate accreditation entity approved by the State in consultation with the Secretary; and

"(B) meets such other requirements as the Secretary may impose to assure the quality of the intensive residential services provided.

"(3) No service may be treated as an intensive residential service under paragraph (1) unless the service is furnished in accordance with standards established by the Secretary for the management of such services.".

(3) REDUCTION IN DAYS OF COVERAGE FOR INPATIENT SERVICES.—Section 1812(a)(5) and section 1812(b)(3), as amended by section 2, are each amended by striking the period at the end and in-

serting the following: ", reduced by a number of days determined by the Secretary so that the actuarial value of providing such number of days of services under this paragraph to the individual is equal to the actuarial value of the days of inpatient residential services furnished to the individual under paragraph (6) during the year after such services have been furnished to the individual for 120 days during the year (rounded to the nearest day).".

(4) AMOUNT OF PAYMENT.—Section 1814 (42 U.S.C. 1395f) is amended—

(A) in subsection (b) in the matter preceding paragraph (1), by inserting "other than intensive residential services," after "hospice care,"; and

(B) by adding at the end the following new subsection:

"Payment for Intensive Residential Services

"(m) The amount of payment under this part for intensive residential services under section 1812(a)(6) shall be equal to—

"(1) the lesser of—

"(A) the reasonable cost of such services, as determined under section 1861(v), or

"(B) the customary charges with respect to such services,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A):

"(2) if such services are furnished by a public provider of services or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with subsection (b)(2); and

"(3) if (and for so long as) the conditions described in subsection (b)(3) are met, the amounts determined under the reimbursement system described in such section.".

SEC. 4. LOWERING COINSURANCE FOR CERTAIN OUTPATIENT MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.

(a) IN GENERAL.—Section 1833(c) (42 U.S.C. 1395l(c)) is amended by striking "mental, psychoneurotic, and personality disorders" and all that follows through "are incurred" and inserting the following: "mental illness or substance abuse of an individual who, at the time such expenses are incurred, is over 18 years of age, is not an

inpatient of a hospital, and has received 5 or more sessions of such treatment during the calendar year,''.

(b) REQUIRING SERVICES TO BE FURNISHED IN ACCORDANCE WITH MANAGEMENT STANDARDS.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 156(a)(2)(D) of the Social Security Act Amendments of 1994, is amended—

(1) by striking ''or'' at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(3) by inserting after paragraph (15) the following new paragraph:

''(16) in the case of any items or services furnished under part B for the treatment of mental illness or emotional disturbance (including substance abuse), if the services are not furnished in accordance with standards established by the Secretary for the management of such services.''.

SEC. 5. INTENSIVE COMMUNITY-BASED SERVICES.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1832(a)(2)(J) (42 U.S.C. 1395k(a)(2)(J)) is amended to read as follows:

"(J) intensive community-based services (as described in section 1861(ff))—

"(i) for an unlimited number of days during any calendar year, in the case of services described in section 1861(ff)(2)(E) that are furnished to an individual who is a seriously mentally ill adult, a seriously emotionally disturbed child, or an adult or child with serious substance abuse disorder (as determined in accordance with criteria established by the Secretary),

"(ii) in the case of day treatment services for an individual under 19 years of age described in section 1861(ff)(2)(C), for up to 180 days during any calendar year, except that such services may be furnished to the individual for a number of additional days during the year equal to the difference between the total number of days of intensive residential services which the individual may receive during the year under part A (as determined under section 1812(a)(6)) and the number of days of such services which the individual has received during the year, or

"(iii) in the case of any other such services, for up to 90 days during any calendar year, except that such services may be furnished to the individual for the number of additional days during the year described in clause (ii).".

(2) REDUCTION IN NUMBER OF DAYS OF INTENSIVE RESIDENTIAL SERVICES.—Section 1812(a)(6) (42 U.S.C. 1395d(a)(6)), as added by section 3(a), is amended—

(A) by inserting "(A)" before "such services"; and

(B) by striking the period at the end and inserting the following: ", and (B) reduced by a number of days determined by the Secretary so that the actuarial value of providing such number of days of services under this paragraph to the individual is equal to the actuarial value of the days of intensive community-based services furnished to the individual under section 1832(a)(2)(J) during the year after such services have been furnished to the individual for 90 days (or, in the case of services described in section 1832(a)(2)(J)(ii), for 180 days) during the year (rounded to the nearest day).".

(b) SERVICES DESCRIBED.—Section 1861(ff)(2) (42 U.S.C. 1395x(ff)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "are—" and inserting "are as follows:";

(2) in subparagraph (C)—

(A) by inserting "behavioral aide services," after "nurses", and

(B) by adding at the end the following: "(to the extent authorized under State law)";

(3) by adding "and" at the end of subparagraph (G);

(4) in subparagraph (H), by striking ", and" and inserting a period;

(5) by redesignating subparagraphs (A) through (H) as clauses (i) through (viii) and moving such subparagraphs 2 ems to the right;

(6) by inserting before clause (i) (as so redesignated) the following:

"(A) Partial hospitalization services consisting of—";

(7) by inserting after clause (viii) (as so redesignated) the following new subparagraphs:

"(B) Psychiatric rehabilitation services.

"(C) Day treatment services for substance abuse treatment for individuals of any age and for

other mental health services for individuals under 19 years of age.

"(D) In-home services.

"(E) Case management services, including collateral services designated as such case management services by the Secretary.

"(F) Ambulatory detoxification services."; and

(8) in subparagraph (I)—

(A) by striking "such" and inserting "Such", and

(B) by redesignating such subparagraph as subparagraph (G).

(c) PERMITTING NON-PHYSICIAN PROVIDERS TO SUPERVISE INDIVIDUAL PROGRAM OF TREATMENT.—Section 1861(ff)(1) (42 U.S.C. 1395x(ff)(1)) is amended by inserting after "supervision of a physician" the following: "(or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health or substance abuse treatment professional)".

(d) REQUIRING SERVICES TO MEET MANAGEMENT STANDARDS.—Section 1861(ff)(1) (42 U.S.C. 1395x(ff)(1)) is amended by striking the period at the end and inserting the following: ", but does not include any item or service that is not furnished in accordance with

standards established by the Secretary for the management of such services.".

(e) PROGRAMS ELIGIBLE TO PROVIDE SERVICES.—Section 1861(ff)(3) (42 U.S.C. 1395x(ff)(3)) is amended to read as follows:

"(3) A program described in this paragraph is a program (whether facility-based or freestanding) which is furnished by an entity—

"(A) legally authorized to furnish such a program under State law (or the State regulatory mechanism provided by State law) or certified to furnish such a program by an appropriate accreditation entity approved by the State in consultation with the Secretary; and

"(B) meeting such other requirements as the Secretary may impose to assure the quality of the intensive community-based services provided.".

(f) WAIVER OF COPAYMENT FOR CASE MANAGEMENT SERVICES FURNISHED TO CERTAIN INDIVIDUALS.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)), as amended by section 147(f)(6)(C) of the Social Security Act Amendments of 1994, is amended—

(1) in subparagraph (B), by striking "or (E)" and inserting "(E), or (F)";

(2) by striking "and" at the end of subparagraph (E);

(3) by adding "and" at the end of subparagraph (F); and

(4) by adding at the end the following new subparagraph:

"(G) with respect to services described in section 1832(a)(2)(J)(i), the amount determined under subparagraph (B), except that '100 percent' shall be substituted for any reference in such subparagraph to '80 percent';".

(g) CONFORMING AMENDMENTS.—(1) Section 1835(a)(2)(F) (42 U.S.C. 1395n(a)(2)(F)) is amended—

(A) by striking "partial hospitalization" and inserting "intensive community-based"; and

(B) in clause (ii), by striking "physician" and inserting "physician (or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health professional)".

(2) Section 1861(s)(2)(B) (42 U.S.C. 1395x(s)(2)(B)) is amended by striking "partial hospitalization" and inserting "intensive community-based".

(3) Section 1861(ff) (42 U.S.C. 1395x(ff)) is amended—

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(A) in the heading, by striking "Partial Hospitalization" and inserting "Intensive Community-Based"; and

(B) in paragraph (1), by striking "partial hospitalization" and inserting "intensive community-based".

(4) Section 1866(e)(2) (42 U.S.C. 1395cc(e)(2)) is amended by striking "partial hospitalization" and inserting "intensive community-based".

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to items and services furnished on or after January 1, 1996.

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